United Nations S/2001/1161

Security Council

Distr.: General
7 December 2001

Original: English

Letter dated 7 December 2001 from the Permanent Representative of Rwanda to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to forward to the Council Rwanda's reaction to the report of the United Nations Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of the Congo through the following documents (see annex):*

(a) Reaction of the Government of Rwanda to the report of the United Nations Panel of Experts;

(b) Rwanda welcomes key elements of the report of the Panel.

I should be grateful if you could kindly circulate them as documents of the Security Council.

(*Signed*) Anastase **Gasana**
Ambassador
Permanent Representative of Rwanda to the United Nations

* The annex is being circulated in the language of submission only.

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Annex to the letter dated 7 December 2001 from the Permanent Representative of Rwanda to the United Nations addressed to the President of the Security Council

Reaction of the Government of Rwanda to the report of the United Nations Panel of Experts

I. Introduction

The Rwandan Government received the addendum (see S/2001/1072) to the previous report (see S/2001/357) and it has issued a preliminary response contained in a brief statement issued by the Ministry of Foreign Affairs and Regional Cooperation on 22 November 2001.

The terms of reference of the Panel were as follows:

(a) An update on the relevant data and analysis of further information, including relevant information on the activities of countries and other actors for which necessary quantity and quality of data were not made available earlier;

(b) A response, based as far as possible on corroborated evidence, to the comments and reactions of the States and actors cited in the report of the Panel;

(c) An evaluation of the situation at the end of the mandate of the Panel, and its conclusions, assessing whether progress has been made on the issues, which come under the responsibility of the Panel.

On the crucial issue of responding to comments and reactions of the States and other parties following the first report, the Panel admits that it could not address all the complaints because of time constraints. This is unfortunate. However, since the addendum to the first report is at the same time an update, it is hoped this omission will not detract from an otherwise improved document.

The report's historical review of resource management in the Democratic Republic of the Congo (DRC), however brief, that traces the plundering and fraudulent trade, the personalization of State control, from Mobutu to Joseph Kabila, puts the issues raised by the Security Council in a proper perspective.

The Panel reviewed the security situation in the Great Lakes region and it recognizes the shift of the war to the east "along the borders of Rwanda and Burundi, and the shores of Lake Tanganyika". It also recognizes that the war is waged by "armed groups" from Rwanda (ALIR) and Burundi (FDD) and the Mai Mai. The armed groups are trained and armed by Zimbabwe and the Kabila Government.

Whereas the Panel was able to establish the commercial activities of Zimbabwe, Namibia, Angola and Uganda through established companies, that was not the case with Rwanda. In the case of the allies of the DRC Government a direct link between the exploitation and the continuation of the war was established. A system of payment through concessions, contracts, and joint ventures, which previously has been publicly acknowledged at the highest level, has been established by the Panel. Some of the resources go to finance the arming and training of FDD and ALIR as described in the report.

Nevertheless the Panel makes a very important observation that "a primary and fundamental reason for the continuing and systematic exploitation ... is the effective collapse of all State institutions and structures of the Democratic Republic of the Congo".

The Panel correctly observes that exploitation of resources of DRC involves a large number of State and non-state actors and it gives an impressive list. It observes further that without a resolution of the conflict it would be unrealistic to expect to put an end to the exploitation. The Government of Rwanda fully endorses this view, as it refocuses our attention to full and speedy implementation of the Lusaka Agreement.

The Panel recommends restoration of State control over DRC, review of fraudulent contracts, and accelerated DDRR to address the security concerns expressed by some countries. Once again the Government of Rwanda supports the speedy conclusion of the Inter-Congolese Dialogue as an effective means of making the first step in restoration of State control.

The disarmament of the Interahamwe and ex-FAR will certainly lead to the withdrawal of all foreign forces. Rwanda in particular has always seen a direct link between the active and hostile presence of these forces and the deployment of its forces in DRC.

II. Exploitation of resources

The report looks at six commodities: Colombo-tantalite, gold, copper, cobalt, diamonds, and timber. Since the Panel was investigating exploitation of resources, a more comprehensive list of DRC resources should have been established. For example, in the mineral sector, oil and water are important and they might have been the subject of contracts no different from those involving diamonds and cobalt. Coffee which features in the recommendations was not mentioned in this section. Palm oil and fish should have been looked at as they are important resources in DRC.

In general, the Panel did attempt to establish verifiable information except in the case of the area under the control of RCD. The Panel makes allegations linking Rwanda and RCD in taxation regimes, revenue collection etc. The Rwandan Government would have expected the Panel to have walked the extra mile, literally, to Goma to investigate how RCD gets revenue and how it utilizes its resources.

We shall respond directly to the contents of the report wherever an attempt is made, directly or indirectly, to impute any resource exploitation, legal or illegal to Rwanda. We shall also provide additional information or explanation where we think the Panel did not get such.

Specific cases on Rwanda

In paragraph 14, the Panel states that "RPA continued to collect and channel profits from trade in natural resources through a sophisticated internal mechanism". The Rwandan Government is at a loss what this is supposed to mean.

- The accusation of sophistication is not acceptable. Since the Panel was able to establish facts in other countries it should have been able to do the same in Rwanda or drop the speculative innuendo.

In paragraph 19, the Panel also suggested that the fall of the price of Colombo-tantalite and the publication of the report of the Panel of Experts led to a change of tactics by the Rwandan Army. The comptoirs which were in Bukavu and Goma were moved to Cyangugu and Gisenyi, and Congolese partners were used to handle the trade.

- The comptoirs for Colombo-tantalite run by RPA and its Congolese partners do not exist, and in any case the Panel could have easily identified both the comptoirs and their operators. A member of the Panel visited offices of a private company with operations in Gisenyi and Cyangugu in September, areas that produce coltan. Even these local operations, legal as they are under Rwandan law, are not run by the Army.

On Colombo-tantalite production figures the Panel states in paragraph 23 that statistics presented by the Rwandan Government on production, import for processing, and export were not consistent. No certificates of origin were presented for review.

The problem of statistics is misrepresented. The Departments of Customs, Mining, Trade, Commerce, and the National Bank of Rwanda (BNR) were present and they explained the different purposes for which they use statistics. Attempting to have them tally would need to start from the raw data and do a specific analysis. There was no intention to cover up anything. If the Panel had wished to go through with the exercise, Government statisticians would have collaborated.

It is interesting to note that the Panel found that statistics did not tally in all the countries it visited. Is it a coincidence, lack of capacity, or a common strategy to deceive?

In paragraph 20, the Panel asserts that "Transport networks have also been reconfigured since the publication of the report". When Sabena halted the transport of coltan, other airlines came in. These, Martin Air and DAS Air, pick up minerals from Kigali or from Goma and Bukavu via Kigali.

- The point about transport companies operating in Rwanda is misunderstood. Rwanda needs more than Sabena to carry its own commercial cargo, and two additional air cargo companies, running two flights a week, plus other airlines from South Africa, cannot survive on transporting Colombo-tantalite from the Kivu and Rwanda production only. So what the Panel calls reconfiguration is normal competition within the industry. It is not a political decision by Rwanda which does not own any bit of either of the companies. In any case there is nothing wrong with goods passing through Rwanda to and from DRC as we have always stated.

In paragraph 44, the report says "The high combined taxes imposed by the RCD-Goma rebel group and RPA ultimately resulted in diamonds mined in this area [Kisangani] being redirected to Kampala, where lower tax rates prevail". In paragraphs 45 and 46, the Panel alleges that diamonds from artisan mining in Kisangani area have provided revenue for rebels, RPA, UPDF. Revenue for

RPA is allegedly collected by Congo Desk. On diamonds, Congo desk charges 10 per cent + 5 per cent for RCD, making it extremely high. Consequently diamonds pass through Uganda where UPDF charges less and no longer in Rwanda.

- The Government of Rwanda is not sure how the Panel understood the role of the "Congo Desk" in our dealings with the RCD. It would have been helpful to the Panel if they had sought to visit and talk to whoever runs the desk. The desk handles transit, logistics, and meetings RCD holds with foreign visitors who chose not to go to Goma. It is a liaison office based in Kigali and it does not have operations within DRC. The government reiterates that Rwanda has no mechanism for levying tax on Congo minerals or any other commodity.

- If the information that now all the diamonds pass through Kampala in paragraph 14 is correct, then the conclusion in paragraph 46 that statistics show no increase in diamond exports for Rwanda should read statistics show no more diamond trade through Rwanda, even by third parties!

III. The link between exploitation and continuation of the war

The Panel alleges, in paragraph 57 that "short-lived battles have been fought by the Mayi-Mayi with RPA over access to coltan".

In paragraph 58, the Panel noted, with corroborative evidence, that Zimbabwe is supporting FDD and ALIR in South Kivu. Their command is based in Lubumbashi through ALIR uses South Kivu to link with Burundian rebels. The Panel states that in military terms, the area is a gateway to Burundi which offers an escape route to Rwanda or to Tanzania.

- The Panel correctly recognizes the strategic importance of the South Kivu area for forces attempting to bring the war to Rwanda (para. 59). It further confirms this intention, and the assistance ALIR receives, to achieve this objective. In paragraph 93, the Panel recognizes that ALIR's goal is to overthrow the Government of Rwanda (the Panel prefers to call it the Kagame regime).

- Furthermore the Panel demonstrates that trade in coltan and diamonds is no longer lucrative (paras. 44, 45 and 46). So logically, RPA cannot be in DRC to mine coltan and diamonds forgetting Interahamwe (ALIR) and their State and non-state allies.

- The capacity for the genocidaires to wage war on Rwanda is not locally derived from coltan mining but from the larger mining industry producing diamonds (Kasai), copper and cobalt (Katanga) and oil (Bas Congo).

- It is unfortunate however for the Panel to recognize that the intention of ex-FAR and Interahamwe is to topple the Government of Rwanda (or the Kagame regime as the Panel would rather have it) and in the same breath talk of security threats being "a pretext to maintain a large military presence" (paras. 58 and 93).

- The same military presence is supposed to facilitate continuing exploitation of resources in Kisangani and Kindu. First of all Rwanda has no forces in Kisangani. Second, Kindu is better known most as a port not a mining town. The reasons why the United Nations is seeking to secure Kisangani and Kindu

for MONUC deployment in the east are exactly the same as Rwanda had to occupy the two towns. We would like to believe that they are military not economic.

- The Rwandan Government, after reviewing the foregoing, still stands by its charge of insensitivity reproduced in paragraph 92.

- The Security Council protested the use of the expression "so-called negative forces" while referring to Interahamwe and ex-FAR and associated forces as is done once again in paragraph 91. We would like to inform the Panel that these forces committed genocide, or are associated with those who did, in Rwanda between 1990 and 1994.

  In paragraph 64, the Panel notes that President Kabila and his allies agreed that "their extended military presence had to be compensated in some form. President Kabila responded by granting diamond mining concessions in the rich Kasai region, such as the Sengamines concession ... and the Tchikapa concession ...". This was to be achieved by direct concessions, mining and timber, and by establishing joint ventures between their respective defence companies, from Zimbabwe and Namibia, and COMIEX, a Congolese holding company owned by Kabila.

- This is a blatant link between the continuation of war and exploitation of resources. The Rwandan Government cautions that unless this link is severed in one way or another, then the implementation of the Lusaka Agreement to bring an acceptable and positive conclusion will continue to prove elusive.

Conclusions and recommendations

Sections VIII and IX carry the conclusions and recommendations of the Panel. Suffice it to say that the recommendations both point to a positive and constructive approach to the central issues. They contain the following key elements:

- All must be done to give DRC effective control over its territory and to protect its resources from illicit exploitation. This is a historical problem.

- MONUC should accelerate the disarmament, demobilization, repatriation and reintegration process.

Finally, the United Nations, through MONUC, possesses documents developed in connection with the DDRR programme; these should be put to use without any further delay. In paragraph 142 of its report, the Panel gets close to encapsulating the problem of armed groups, in surmising as follows:

> **"The continued, and sometimes intensifying, fighting appears to be aimed ... at either controlling a corridor into Burundi or continuing to destabilize the region so as to prevent an effective demobilization effort from getting under way. Credible sources indicate also that several thousand ALIR [Interahamwe/ex-FAR] combatants were recently incorporated into the Congolese Armed Forces".**

In raising this scenario, the Panel is informing the Security Council that the true problem for Rwanda, at least, is the support the Government of DRC and its allies continue to give to these genocide and terrorist forces. The leadership of these forces, most of which are indicted for genocide and crimes against humanity, enjoys unlimited privileges and freedom in Kinshasa, against the norms and obligations under international law.

Rwanda welcomes key elements of the report of the Panel

The Government of the Republic of Rwanda has welcomed the key elements of the addendum to the report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo.

In a response to the addendum to the report, the Rwandan Government said the conclusions and recommendations of the report, "both point to a positive and constructive approach to the central issues" relating to the conflict in DRC. The key elements of the Panel's recommendations are that "all must be done to give DRC effective control over its territory and to protect its resources from illicit exploitation", and "MONUC should accelerate the disarmament, demobilization, repatriation and reintegration process".

The Rwandan Government endorsed the Panel's view that, "without a resolution of the conflict it would be unrealistic to expect to put an end to the exploitation". This should refocus "our attention to full and speedy implementation of the Lusaka Agreement", the Rwandan Government said.

The Rwandan Government added that "the disarmament of the Interahamwe and ex-FAR will certainly lead to the withdrawal of all foreign forces. Rwanda in particular has always seen a direct link between the active and hostile presence of these forces and the deployment of its forces in DRC".

The Rwandan Government also noted the Panel's acknowledgement that continuing or intensifying fighting appears to oe aimed at preventing effective demobilization in DRC, and that credible sources informed the Panel that several thousand ALIR combatants have been incorporated into the Congolese Armed Forces. Rwanda believes that this informs "the Security Council that the true problem for Rwanda, at least, is the support the Government of DRC and its allies continue to give to these genocide and terrorist forces".

The Rwandan Government added that "The leadership of these forces, most of which are indicted for genocide and crimes against humanity, enjoys unlimited privileges and freedom in Kinshasa, against the norms and obligations under international law".

On allegations of exploitation of the wealth of DRC, the Rwandan Government noted that the Panel failed to establish commercial activities of the Rwandan Government through established companies. "In the case of the allies of the DRC government a direct link between the exploitation and the continuation of the war was established. A system of payment through concessions, contracts, and joint ventures, which previously has been publicly acknowledged at the highest level, has been established by the Panel. Some of the resources go to finance the arming and training of FDD and ALIR, as described in the report", the Rwandan Government said.

The Panel failed to establish any such links in the case of the Rwandan Government and the Rwandese Patriotic Army (RPA).